

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DEBORAH BURNS

Plaintiff

VS.

UNITED STATES OF AMERICA

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CIVIL ACTION NO. 4:11-CV-2005

OPINION AND ORDER

The Court now moves on its own motion to dismiss Plaintiff Deborah Burns' case against all Defendants. This Court may dismiss a complaint filed *in forma pauperis* under 28 U.S.C. § 1915(e)(2)(B)(1) if the Court is "satisfied that the action is frivolous or malicious." A complaint is frivolous if it lacks an arguable basis in law or fact. *Denton v. Hernandez*, 504 U.S. 25 (1989). A complaint lacks an "arguable basis in law" if it is based on an indisputably "meritless legal theory," e.g., because defendants are absolutely immune from suit, or the complaint asserts a violation of a legal interest that does not exist, or the action is clearly barred by limitations. *See, e.g., Allison v. Kyle*, 66 F.3d 71 (5th Cir. 1995); *Alfred v. Corrections Corp. of America*, No. 09-30614, 2011 WL 2201188, *2 (5th Cir. June 7, 2011).

The Court may dismiss factual allegations that are "clearly baseless," "fanciful," or "delusional." *Alfred*, 2011 WL 2201188 at *2 (citing *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992)). "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." *Id.*, (citing *Denton*, at 33).

Deborah Burns asserts claims against the United States, the United States Drug Enforcement Agency ("DEA"), and "United States Military Veterans Raybourn Ward Hendricks

of United State Marines Veteran Military [sic]" arising out of an allegedly illegal sentence of incarceration and probation imposed after a criminal trial in the Eastern District of Wisconsin. *See* No. 90-cr-198. Burns apparently has been contesting various issues from that criminal trial in the Eastern District and unsuccessfully has sought review of the trial or sentence before the Seventh Circuit Court of Appeals and the United States Supreme Court. *See* Doc. 1 at 22, 23. She has now appeared before this Court seeking further review of those matters and requesting \$250 million in damages and \$2 billion in lost wages.

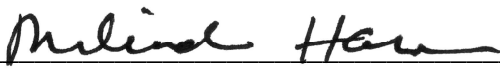
Burns' attack on her prior conviction is not cognizable in this Court, nor has Burns alleged any set of facts that would suggest a violation of her civil rights committed by any named Defendant. The Court finds that Burns' complaint lacks any basis in law and therefore should be dismissed.

Conclusion

For the foregoing reasons, the Court hereby

ORDERS that Deborah Burn's complaint is **DISMISSED** pursuant to § 1915(e) as frivolous.

SIGNED at Houston, Texas, this 1st day of May, 2012.



MELINDA HARMON
UNITED STATES DISTRICT JUDGE